

ENROLLED ACT NO. 13, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to criminal procedure; clarifying procedures for mental evaluations in criminal cases as specified; amending a definition; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 7-11-301(a)(iii), 7-11-303(c)(intro), 7-11-304(d), (e), by creating new subsections (f) and (g) and by renumbering (f) as (h) are amended to read:

7-11-301. Definitions.

(a) As used in this act:

(iii) "Mental deficiency" means a defect attributable to intellectual disability, brain damage and ~~learning~~ cognitive disabilities;

7-11-303. Examination of accused to determine fitness to proceed; reports; commitment; defenses and objections.

(c) Written reports of the ~~pretrial~~ examination shall be filed with the clerk of court. The report shall include:

7-11-304. Responsibility for criminal conduct; plea; examination; commitment; use of statements by defendant.

(d) In all cases where a plea of "not guilty by reason of mental illness or deficiency" is made, the judge court shall order ~~the defendant examined as provided in W.S. 7-11-303(b). If an examination provided in W.S. 7-11-303(b) was made, the report may be received in evidence and no new examination shall be required unless, in the discretion of the court, another examination is~~

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~~necessary. Within five (5) days after receiving a copy of the report, both the accused and the state, upon written request, may obtain an order granting them an examination of the accused by a designated examiner of their own choosing. The clerk of court shall deliver copies of the report or reports to the district attorney and to the accused or his counsel. All reports required by this subsection shall conform to the requirements of W.S. 7-11-303(c). These reports are not public records or open to the public~~ an examination of the defendant by a designated examiner. The order may include, but is not limited to, an examination of the defendant at the Wyoming state hospital on an inpatient or outpatient basis, at a local mental health center on an inpatient or outpatient basis, or at his place of detention. In selecting the examination site, the court may consider proximity to the court, availability of an examiner and the necessity for security precautions. If the order provides for commitment of the defendant to a designated facility, the commitment shall continue no longer than a forty-five (45) day period for the observation and evaluation of the mental condition of the defendant, which time may be extended by the approval of the court.

(e) ~~If the initial report contains the recommendation that the accused be held in a designated facility pending trial, the court may order that the accused be committed to or held in a designated facility pending trial~~ an examination of a defendant's fitness to proceed has been ordered pursuant to W.S. 7-11-303, an examination following a plea of "not guilty by reason of mental illness or deficiency" shall not occur, or be ordered, until the court has found the defendant is competent to proceed under W.S. 7-11-303.

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(f) A written report of the examination shall be filed with the clerk of court. The report shall include:

(i) Detailed findings, including, but not limited to, the data and reasoning that link the opinions specified in paragraphs (ii) and (iii) of this subsection;

(ii) An opinion as to whether the defendant has a mental illness or deficiency;

(iii) An opinion as to whether at the time of the alleged criminal conduct the defendant, as a result of mental illness or deficiency, lacked substantial capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.

(g) The clerk of court shall deliver copies of the report to the district attorney and to the defendant or his counsel. The report shall not be a public record or open to the public. If an examination provided under subsection (d) of this section was conducted, the report may be received in evidence and no new examination shall be required unless requested under this subsection. Within five (5) days after receiving a copy of the report, the defendant or the state, upon written request, may obtain an order granting an examination of the defendant by a designated examiner chosen by the requester of the examination.

~~(f)~~(h) Except as otherwise provided in this subsection, no statement made by the defendant in the course of any examination or treatment pursuant to this section and no information received by any person in the course thereof is admissible in evidence in any criminal proceeding on any issue other than that of the mental condition of the defendant. If the defendant testifies in

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his own behalf, any statement made by him in the course of any examination or treatment pursuant to this section may be admitted:

(i) For impeachment purposes; or

(ii) As evidence in a criminal prosecution for perjury.

Section 2. W.S. 7-11-303(c)(iv) is repealed.

Section 3. This act is effective July 1, 2009.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk